

REMARKS

The last Office Action has been carefully considered.

It is noted that claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 102(b) over the Austrian patent 335,145.

After carefully considering the Examiner's grounds for the rejection of the claims, applicant has amended claims 4 and 5 and submitted additional dependent claims 6, 7, 8 which depend on claim 1.

It is respectfully submitted that the claims currently on file clearly and patentably distinguish the present invention from the prior art.

Claim 1, the broadest claim on file, defines that in the angle fixing of the present invention the two limbs 12 are locked with one another by a single locking element 26.

Turning now to the references and in particular to the Austrian patent, it can be seen that such a construction is not disclosed in the Austrian patent. In the reference, additional elements (plates) 15 and 17 are connected with the limbs 4 and 5, and the limbs 4 and 5 can be locked with one another only by the additional elements 15 and 17.

Thus, this reference does not teach the new features of the present invention which are now defined in claim 1, in particular a single locking element which locks the two limbs with one another.

Claim 5 defines that the two limbs 12 have tongs 16, 18, 20 which project arcuately therefrom, engaged with one another, or rest against one another and guide the two limbs pivotally on one another. The reference does not disclose any arcuate tongs. The limbs disclosed in these references do not have any portions which can be considered as projecting tongs and definitely do not have any portions which can be considered as arcuately projecting tongs.

Therefore, claim 5 should be considered also as patentably distinguishing over the art.

Claim 6 defines that the single locking element 26 is formed by a screw extending through the two limbs. These features are not disclosed in the references as well.

Claim 7 defines that the two limbs have projecting tongues through which the single locking element extends. The features of this claim are also not disclosed in the references.

Finally, claim 8 defines that the tongues projecting from the limbs are integral with the limbs. The features of this claim are also not disclosed in the references.

The Examiner rejected the original claims as anticipated over the reference. As explained herein above, the new features of the present invention as defined in the current claims are not disclosed in this reference. In connection with this, it is believed to be advisable to cite the decision in re Lindenmann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984) in which it was stated:

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim."

Definitely, the references do not contain all elements as defined in the claims in the present application in their specific order, and in their interconnection and interjunction with one another.

Also, the present invention can not be derived from the reference as a matter of obviousness. In order to arrive at the applicant's invention from the teaching of the reference, the reference has to be fundamentally modified by including into it the features which were first proposed by the applicant. However, It is known that in order to arrive at a claimed invention, by modifying the references cited art must itself contain a suggestion for such a modification.

This principle has been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in re Randol and Redford (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggestion; it is not a proper use of a patent as a reference to modify its structural to one which prior art references do not suggest.

Definitely, the reference does not contain any hint or suggestion for such modifications.

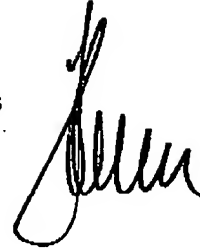
It is therefore believed that the claims currently on file should be considered as patentably distinguishing over the art and should be allowed.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal aspects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned at (631-549-4700).

Respectfully submitted,

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